

HOUSE BILL NO. 371

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE DYSON

Introduced: 1/30/98

Referred: Health, Education and Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to parents' appearing at juvenile proceedings with their
2 children."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 11.51 is amended by adding a new section to read:

5 **Sec. 11.51.150. Parental failure to appear with a child at a juvenile**
6 **proceeding.** (a) A person commits the crime of parental failure to appear with a
7 child at a juvenile proceeding if the person

8 (1) is the parent of a child who has been ordered to appear at a juvenile
9 proceeding under AS 47 and the disabilities of minority of the child have not been
10 removed for general purposes under AS 09.55.590;

11 (2) received a summons or subpoena to appear at the juvenile
12 proceeding or notice of any type or form that the child had been ordered to appear at
13 a juvenile proceeding under AS 47; and

14 (3) knowingly failed to appear at the juvenile proceeding at which the

1 child was ordered to appear.

2 (b) In a prosecution under this section, it is an affirmative defense that

3 (1) the court previously excused the defendant from appearing at the
4 proceeding; or

5 (2) good cause prevented the defendant from appearing at the
6 proceeding; in this paragraph, "good cause" includes a situation where the parent

7 (A) resides outside of the state and does not have physical
8 custody of the child;

9 (B) has physical custody of the child but resides outside of the
10 state and appearing at the proceeding would have resulted in undue hardship
11 to the parent; or

12 (C) resides in the state, but was outside the state at the time of
13 the proceeding for reasons other than avoiding appearance at the proceeding
14 and appearing at the proceeding would have resulted in undue hardship to the
15 parent.

16 (c) Parental failure to appear with a child at a juvenile proceeding is a class
17 B misdemeanor.

18 * **Sec. 2.** AS 47.10.030(a) is amended to read:

19 (a) After a petition is filed and after further investigation that the court directs,
20 if **each parent of the minor and** the person having custody or control of the minor
21 **have** [HAS] not appeared voluntarily, the court shall issue a summons that

22 (1) recites briefly the substance of the petition;

23 (2) clearly states that, at the hearing, it is possible that parental rights
24 and responsibilities may be terminated forever and that the minor may at the hearing
25 be committed to the department for possible adoption; and

26 (3) directs **each parent of the minor and** the person having custody
27 or control of the minor to appear personally in court with the minor at the place and
28 at the time set **out** [FORTH] in the summons.

29 * **Sec. 3.** AS 47.10.030(b) is amended to read:

30 (b) In all cases under this chapter, the minor, each parent of the minor, and the
31 guardian of the minor shall be given notice adequate to give actual notice of the

1 proceedings and the possibility of termination of parental rights and responsibilities,
 2 taking into account education and language differences that are known or reasonably
 3 ascertainable by the petitioner or the department. The notice of the hearing must
 4 contain all names by which the minor has been identified. Notice shall be given in the
 5 manner appropriate under rules of civil procedure for the service of process in a civil
 6 action under Alaska law or in any manner the court by order directs. Proof of the
 7 giving of the notice shall be filed with the court before the petition is heard. The court
 8 **shall** [MAY ALSO] subpoena **each** [THE] parent of the minor **and may also**
 9 **subpoena the guardian of the minor** [,] or any other person whose testimony may
 10 be necessary at the hearing. A subpoena or other process may be served by a person
 11 authorized by law to make the service, and, where personal service cannot be made,
 12 the court may direct that service of process be in a manner appropriate under rules of
 13 civil procedure for the service of process in a civil action under Alaska law or in any
 14 manner the court directs.

15 * **Sec. 4.** AS 47.12.050(c) is amended to read:

16 (c) The court **shall** [MAY] subpoena **each** [THE] parent **of the minor and**
 17 **may subpoena the** [OR] guardian of the minor [,] or any other person whose
 18 testimony may be necessary at the hearing. A subpoena or other process may be served
 19 by a person authorized by law to make the service. If personal service cannot be made,
 20 the court may direct that service of process be in the manner appropriate under the
 21 Alaska Rules of Civil Procedure for the service of process in a civil action under state
 22 law or in any manner the court directs.

23 * **Sec. 5.** AS 47.12.050(d) is amended to read:

24 (d) In any proceeding under this chapter, the **absence** [PRESENCE] of the
 25 minor's parent or guardian **does not deprive the department or the court of**
 26 **jurisdiction** [IS PREFERRED].

27 * **Sec. 6.** AS 47.12.070 is amended to read:

28 **Sec. 47.12.070. Summons and custody of minor.** After a petition is filed and
 29 after further investigation that the court directs, if the minor has not appeared
 30 voluntarily, the court shall issue a summons that

31 (1) recites briefly the substance of the petition;

1 (2) directs the person having custody or control of the minor **and each**
2 **parent of the minor** to appear personally in court with the minor at the place and at
3 the time set **out** [FORTH] in the summons.